

Award No. 559

Docket No. 549

2-ACL-MA-'41

**NATIONAL RAILROAD ADJUSTMENT BOARD
SECOND DIVISION**

The Second Division consisted of the regular members and in addition Referee William E. Helander when award was rendered.

PARTIES TO DISPUTE:

**SYSTEM FEDERATION NO. 42, RAILWAY EMPLOYEES'
DEPARTMENT, A. F. OF L. (MACHINISTS)**

ATLANTIC COAST LINE RAILROAD COMPANY

DISPUTE: CLAIM OF EMPLOYEES: That Machinist W. S. Benner, Tampa, Florida, should be compensated in the amount of \$146.16 to cover loss of time resulting from thirty days' suspension from work, effective 4:00 P. M., February 21, 1940.

EMPLOYEES' STATEMENT OF FACTS: W. S. Benner was employed as machinist helper at Lakeland, Florida, October 10, 1922; established machinist seniority May 2, 1924, date of completing 50% of a step rate period terminating on May 2, 1926. Cut off as machinist at Lakeland, September 1, 1939; Accepted temporary assignment as machinist at Tampa October 3, 1939, where now employed.

On February 6, 1940, Mr. Benner was given an investigation by engine-house foreman, Mr. J. W. Cofflin, on a charge alleging "improper application of bushing to the right front side rod of engine 1687, February 2nd." On February 19, 1940, Benner received the following notice over the signature of Master Mechanic W. C. Stephenson:

"Effective at 4:00 P. M., February 21st, we are suspending you for thirty days for improperly applying bushing in the side rod of engine 1687 on February 2nd."

assessing discipline amounting to twenty-one eight hour days' loss of time, which when multiplied by Benner's rate of eighty-seven (87¢) cents per hour equals the amount of financial loss specified in the foregoing statement of claim.

POSITION OF EMPLOYEES: It is the position of the employees that W. S. Benner was unjustly penalized when disciplined for train delay allegedly caused by an improper application of bushing to the right front side rod of engine 1687 on February 2. That W. S. Benner properly drilled and applied this bushing as of February 2, and furthermore, that any delays later experienced through defects developing in the same were not involved with its application to the rod but directly with its application to the pin.

At this point it is well to understand that the carrier cites the evidence developed at the investigation as justification for the action taken in this case. However, in fixing responsibility for the defects involved it literally refuses to consider the fit of bushing to pin as even contributing cause for

He also stated that the bushing keeper was intact and in good condition though the bushing was loose, probably due to heating, and that the pin was scored. The pin was dressed up at Sanford and new bushing applied and engine gave no further trouble.

The right front side rod bushing that was applied to the side rod of Engine 1687 was machined by Machinist J. C. Stevens as shown by Exhibit C, affidavit from J. C. Stevens, Machinist, Tampa, Fla. Machinist J. C. Stevens is a regularly assigned machinist on rod bushings for main line service, has had many years of experience and it is an unusual occurrence to have hot pins when the bushings were machined by Machinist J. C. Stevens. He is very reliable and we have never had any experience or any trouble in him making improper fits.

It is proven by affidavit from E. D. Barnett, roundhouse foreman, as Exhibit D, that if Machinist Benner had properly applied the bushing to the rod that there should not have been any trouble experienced on the line of road. However, it is proven by affidavit submitted as Exhibit E, from Engineer F. W. Grayam who was operating Engine 1687 on Train 76, February 2, 1940, that there was something wrong with the right front side rod bushing and did cause considerable trouble and delay to this train, necessitating relieving the engine at Sanford, Fla.

There is little question but that this was just a bad job put up at Tampa, Fla., and a number of witnesses were used to try to create the impression that the job was properly put up, also to try to place the responsibility on Foreman Barnett, which is strictly the responsibility of Machinist Benner. If the bushing had been properly applied, then we would not have had a hot pin with consequent delay to the train. The information from the mechanic at Sanford shows emphatically that this bushing was put in the rod with the grease hole in the bushing entirely out of line with the grease hole in the rod. Consequently, no grease could get to the pin, resulting in it running hot.

Carrier is supported by previous decision of this board in Awards Nos. 76 and 153.

Discipline administered is not unjust or unfair. Therefore, carrier respectfully requests the National Railroad Adjustment Board to deny this claim.

FINDINGS: The Second Division of the Adjustment Board, upon the whole record and all the evidence, finds that:

The carrier or carriers and the employe or employes involved in this dispute are respectively carrier and employe within the meaning of the Railway Labor Act, as approved June 21, 1934.

This Division of the Adjustment Board has jurisdiction over the dispute involved herein.

The parties to said dispute were given due notice of hearing thereon.

The question in this case is purely one of fact.

The record in this case discloses no adequate grounds for disturbing the disciplinary action of the carrier.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

ATTEST: J. L. Mindling
Secretary

Dated at Chicago, Illinois, this 29th day of January, 1941.